

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

GUY SHEPPARD,	§	No. SA:16–CV–426–DAE
	§	
Petitioner,	§	
	§	
vs.	§	
	§	
WILLIAM STEPHENS, Director,	§	
Texas Department of Criminal Justice,	§	
Correctional Inst. Division,	§	
	§	
Respondent.	§	

ORDER: (1) DENYING MOTION FOR LEAVE TO APPEAL OUT OF TIME;
(2) SUA SPONTE GRANTING LEAVE TO OBJECT TO
REPORT AND RECOMMENDATIONS

Before the Court is a motion filed by Petitioner Guy Sheppard, seeking leave to file an appeal to the Fifth Circuit out of time (Dkt. # 10). Sheppard filed a pro se petition for writ of habeas corpus on May 6, 2016. (Dkt. # 1.) On May 26, 2016, Magistrate Judge John W. Primomo filed a Report and Recommendation, recommending to the undersigned that the writ be dismissed for failure to apply within the one-year limitations period under the Antiterrorism and Effective Death Penalty Act (“AEDPA”), 28 U.S.C. § 2244 et seq..

A Report and Recommendation by a United States Magistrate Judge is not the final judgment of the Court, and petitioner may file objections to the Report and Recommendation within fourteen (14) days after having been served with a

copy of the same. Fed. R. Civ. P. 72(b)(2); 28 U.S.C. § 636(b)(1). Court records indicate that the Report and Recommendations were sent to Petitioner via certified mail on May 26, 2016. However, it appears that the instruction to file objections was inadvertently omitted from the order. Accordingly, Petitioner will be granted an additional fourteen days (14) after the date he receives a copy of this order, to file objections to the Report and Recommendation of Magistrate Judge Primomo. At that time, the Court will review any objections and enter final judgment, if appropriate.

Accordingly, Petitioner is **ORDERED** to file any specific objections he may have to the Report and Recommendation of the Magistrate Judge within fourteen (14) days after receipt of this order. His motion for leave to appeal out of time is **DENIED WITHOUT PREJUDICE** (Dkt. # 10).

IT IS SO ORDERED.

DATED: San Antonio, Texas, August 15, 2016.

A handwritten signature in black ink, appearing to read 'David Alan Ezra', is written over a horizontal line.

David Alan Ezra
Senior United States District Judge